

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 11750 OF 2006

DATED: 15.6.2006

Between:

Syamala Jankamma and another

... Petitioner

and

The Assistant Commissioner of
Endowments, Endowments Department,
Guntur and another
... Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.11750 OF 2006

ORAL ORDER:

The petitioners claim to be lessees of lands belonging to Sri Raja Rajeswara Swamy Vari Temple, Sri Kasi Visweswara Swamy Temple and Sri Anjaneya Swamy Vari Temple, Ponnekallu, Tadikonda Mandal, Guntur District, represented by the 3rd respondent.

They were granted leases, pursuant to a public auction for a period of three years on 5.7.2003. The petitioners claim that there was a severe drought in the year 2004-2005 on account of which the State Government issued a notification published in the Guntur District Gazette, whereat the village Ponnekallu in which the lands under the leasehold occupation of the petitioners are situate have also been included. Under the orders above, the Government has extended certain facilities in view of the drought. The petitioners also state that they are paying a good measure of lease amount much higher than the lease amounts offered during the previous years and that they are regularly paying the lease, despite the area having been affected by severe drought without having run into any arrears. The petitioners made a representation to the 1st respondent-the Assistant Commissioner of Endowments, Guntur and the 2nd respondent-Devasthanam during the 1st week of June, 2006 seeking renewal of their leases for a period of one more year on the same terms and conditions, as existing.

The petitioners' grievance leading to the filing of this writ petition is on account of a notification issued by the Devasthanam for grant of leasehold rights of the lands belonging to the Devasthanam by way of a public auction as stipulated in the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short 'the Rules')

published in G.O.Ms.No.379, Revenue (Endowments I) dated 11.3.2003.

Rule 7 of the Rules mandates that all leases of agricultural lands shall be by public auction. Rule 7 (1) however enables the competent authority, on a request made in writing by the Executive Authority to grant lease of any property otherwise than by public auction, if the competent authority is satisfied, for reasons to be recorded in writing, that the suggested procedure is necessary and in the interest of the institution or the Endowment.

No order or decision of the competent authority is brought to the notice of this court exercising the statutory discretion after arriving at a due satisfaction in terms of Rule 7 (1) of the Rules. In the absence of such a decision and for the reasons to be recorded in writing by the competent authority, it does not follow that the discretion could be exercised by this court under Article 226 of the Constitution.

The discretion is conferred by statutory rules to a designated authority and would have to be exercised by that authority. Having regard to the fact that the decision is coupled with a procedural requirement of being exercised only for the reasons to be recorded in writing, the signal is clear that it is an administrative discretion conferred on a designated administrative authority hedged in by specified conditionalities. No case is made out in the circumstances even for issuing a mandamus to the designated authority to exercise the discretion in a particular manner. The power conferred by Rule 7 (1) of the Rules is discretionary.

The impugned public auction notice issued on behalf of the Devasthanam in the aforesaid analysis, is impeccable and not liable for interference. No extension of lease can be granted by this court under the colour of mandamus.

There are no merits. The writ petition is dismissed. No order as to costs.

GODA RAGHURAM, J

Date: 15.6.2006

CVM